

REMARKS

Reconsideration of the outstanding Office Action is respectfully requested in view of the following remarks.

Claim Rejections – 35 USC 102(e)

In paragraph 2 of the Office Action, claims 1-3, 6, 10, 12-15, 17 and 19-23 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0095804 A1 to Coplan. This rejection is respectfully traversed.

Submitted herewith is a Declaration Under 37 C.F.R. 1.131 in order to swear behind Coplan, which has an effective date of January 25, 2001.

As evidenced by the attached Declaration, the invention of the rejected claims was conceived prior to January 25, 2001. The above-identified application was then prepared and then filed on May 10, 2001. Thus, the invention was conceived prior to the effective date of Coplan and there exists due diligence from prior to January 25, 2001 to the filing of the application.

Accordingly, Coplan is not prior art and it is respectfully requested that the rejection based thereon be withdrawn.

Nonetheless, even if it is assumed that Coplan is prior art, Coplan fails to anticipate the claimed invention.

In particular, Coplan fails to disclose a scale having a lower surface being "rigidly and unreleasably attached to said scale-supporting section," as claimed. Instead Coplan discloses a tape 49 that is held in channel 75 by small strips 101 and 103, which are made "of interfastenable yet releasable strips of material such as Velcro" to "detachably retain measuring tape 49 in channel 75." (Column 3, first full paragraph.) Coplan continues to state that "[d]etaching" strip 101 from 103 "allows the user to slide the measuring tape 49 partially outward from channel 75 to be able to measure distances longer than the device itself." (Column 3, first full paragraph.)

Thus, not only does Coplan not disclose a scale having a lower surface being "rigidly and unreleasably attached to said scale-supporting section," as claimed, but it discloses a detachable strip so that the scale can be easily removed from an original position so that it can extend beyond the end of the channels positioning the scale. Therefore, not only does Coplan not disclose a device as claimed, but it teaches away from the device as claimed.

Accordingly, withdrawal of the rejections is further respectfully requested.

Claim Rejections – 35 USC 102(b)

In paragraph 3 of the Office Action, claims 1, 6-9, 13 and 18 are rejected under 35 USC 102(b) as being anticipated by Russo. This rejection is respectfully traversed.

In particular, Russo fails to disclose a scale having a lower surface being “rigidly and unreleasably attached to said scale-supporting section,” as claimed. Instead Russo discloses a member 15 that is in “sliding engagement” with one of the faces 12 (page 1, lines 84-95) so that “the length of the ruler with respect to the drawing of lines can be increased relatively to the length of the body of the ruler” (page 1, lines 13-16).

Thus, not only does Russo not disclose a scale having a lower surface being “rigidly and unreleasably attached to said scale-supporting section,” as claimed, but it discloses a slidable member 15 so that the member 15 can be easily removed from an original position so that it can extend beyond the end of the ruler. Therefore, not only does Russo not disclose a device as claimed, but it teaches away from the device as claimed.

Claim Rejections – 35 USC 103

In paragraphs 5 and 6, claims 4, 5, 11 and 16 are rejected under 35 USC 103 as being unpatentable over Coplan in view of Keller (for claims 4, 5 and 16) or Schwartz et al. (for claim 11).

Since Coplan is not prior art as set forth above, withdrawal of the rejection is respectfully requested.

Further, even assuming that Coplan is prior art, claims 4, 5, 11 and 16 all depend from and further limit one of claims 1 and 13 and are allowable for the reasons set forth above with respect to claims 1 and 13. Additionally since Coplan fails to disclose or suggest the devices claimed and since neither Keller nor Schwartz et al. make up for all of the shortcomings of Coplan, withdrawal of the rejections is further respectfully requested.

New Claims

New claims 24-30 are added to define additional aspects of the claimed inventions.

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In view of the foregoing, the claims are believed to be in form for allowance, and such action is hereby solicited. If any points remain in issue that the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,
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Attachment: Declaration Under 37 CFR 1.131